
OLR Bill Analysis

sHB 6449 (as amended by House "A")*

AN ACT CONCERNING THE SAFETY OF PERSONS ENTERING OR EXITING A SCHOOL BUS.

SUMMARY:

By law, drivers must stop at least 10 feet from a school bus displaying flashing red signal lights. This bill allows towns and school boards to install cameras on school buses to record motor vehicles that violate this law, requires police to issue a summons based on the recorded images (see COMMENT), and allows the images to be used as evidence against vehicle owners.

The bill imposes a \$450 fine on first offenders. Current law imposes a fine of between \$100 and \$500 on these offenders. The penalty for a subsequent offense remains a fine of between \$500 and \$1,000, imprisonment for up to 30 days, or both.

The bill requires the state to remit 80% of the fines collected from violators to the municipalities in which the violations occur. Towns that have contracted with a private vendor to install, operate, and maintain a camera system must use these funds to pay the vendors. The state must distribute the remaining fine revenue into the Special Transportation Fund (12% of the total) and the General Fund (8% of the total.) It requires each Superior Court clerk or the chief court administrator or an official he or she designates to certify to the comptroller the amount of money due for the previous quarter to each town served by the clerk or official. The clerk or official must provide the certification annually by the 30th day of January, April, July, and October.

The bill also makes a conforming change regarding disposition of the fine revenue.

*House Amendment "A" eliminates provisions in the original bill (File 625) creating a school bus camera account in the General Fund, specifying the amount of money to deposit in it, and authorizing the Office of Policy and Management secretary to receive private donations for the account and adopt regulations implementing it. It changes the fine for a first offense, requires a specific distribution of fine revenue and quarterly certification of the amount, and makes a conforming change.

EFFECTIVE DATE: July 1, 2011

FAILING TO STOP FOR A SCHOOL BUS

The bill imposes a \$450 fine, for a first offense, on motorists who fail to stop for a school bus displaying flashing red signal lights. Under current law, offenders face a fine of between \$100 and \$500 for a first offense. The law, unchanged by the bill, imposes a fine of between \$500 and \$1,000, imprisonment for up to 30 days, or both, for subsequent offenses. Police must issue a written warning or summons to the vehicle owner on receiving a school bus driver's written report giving the color, type, and license plate number of a vehicle that violated the law, and the date, approximate time, and location of the violation. By law and under the bill, a violation is processed through the Centralized Infractions Bureau (CIB) (see BACKGROUND).

SCHOOL BUS VIDEO MONITORING SYSTEMS

The bill requires police to issue a written warning or summons upon receiving evidence of a violation from a "live digital video school bus violation detection monitoring system" (monitoring system) mounted on a school bus. Under the bill, a monitoring system must have one or more camera sensors and computers that take live digital and recorded video images of motor vehicles that fail to stop for a school bus displaying flashing red signal lights.

The monitoring system must produce a (1) live visual image that can be viewed remotely and (2) recorded image of the violator's license plate number. The monitoring system must record only a vehicle's license plate number, not the vehicle's occupants or any other person

or vehicle. The recorded image must indicate the date, time, and place of the violation.

Under the bill, (1) a photograph or digital or video image that clearly shows the license plate number of a vehicle violating the law or (2) proof of the vehicle's registration number is sufficient to identify the vehicle for the purpose of establishing jurisdiction over the vehicle owner (or lessee, if a leased vehicle) in any action based on the violation.

All school buses equipped with an operating monitoring system must display a warning sign to that effect.

Monitoring System Procedures

When a monitoring system detects and records a violation, a state or municipal police officer must review the "evidence file." The bill does not state how a police officer would learn of a violation or how he or she would obtain the evidence file.

An evidence file must contain (1) at least two digital photos, recorded videotape, or other recorded images and (2) an affidavit signed by someone who witnessed the violation "live" (as it occurred). Thus, a school bus driver may be a witness. But it is not clear if a witness must have been at the location where the violation took place or may have viewed it remotely through the monitoring system as it occurred.

If, after reviewing the recorded image, a police officer finds reasonable grounds to believe a violation has occurred, he or she must authorize the issuance of a summons. The law enforcement agency (apparently the police department to which the officer belongs) must mail the summons to the vehicle owner within 10 days of the alleged violation. The summons must include copies of at least two digital photos or other recorded images and the signed affidavit from the witness.

Under the bill, a recorded image produced by a monitoring system is sufficient evidence of a violation, and must be admitted as evidence

without further authentication. It is not clear what legal effect this has (see BACKGROUND).

Processing Violations and Available Defenses

The bill permits anyone who receives a summons to enter a guilty plea and pay a fine to the CIB or enter a not guilty plea and request a trial.

It allows someone charged with violating the law to raise any legal defense at trial, including that the:

1. violation was necessary (a) to allow an emergency vehicle to pass; (b) to avoid injuring a person or the property of another; or (c) for the operator to comply with another motor vehicle law or regulation;
2. violation occurred while the driver was in a funeral procession;
3. vehicle was reported stolen and had not been recovered when the violation occurred; or
4. driver was already convicted of illegally passing a school bus based on the same facts.

Under the bill, a recorded image produced by a monitoring system cannot be introduced as evidence in any other civil or criminal proceeding. The bill requires all recorded images of alleged violations to be destroyed no later than (1) 90 days after an alleged violation that did not result in a summons or (2) on the final disposition of a case where a summons was issued.

CONTRACTING WITH VENDORS

Contracting with a Vendor

The bill permits a municipality or school board to install, operate, and maintain the monitoring system, or contract with a private vendor to do so. Such a contract must compensate the vendor for equipment costs and monitoring expenses, and reimburse it for installing, operating, and maintaining the monitoring system.

The contract must require the vendor to report annually to the town or school board on the number of tickets issued as a result of the monitoring system, and the amount of money collected (apparently from fines). The town or school board must submit this information to the Transportation Committee within 30 days. The 30 days apparently runs from the unspecified date the town or school board receives the annual report.

COMMENT

Inconsistent Provisions

Section 1 of the bill requires police to issue a warning or summons upon receiving recorded evidence that a vehicle has violated the law. Section 3 requires police to issue a summons, but only if they determine there are reasonable grounds to believe a violation has occurred.

BACKGROUND

Related Case

In *Melendez-Diaz v. Massachusetts* (129 S. Ct. 2527 (2009)) the U.S. Supreme Court held that a defendant was denied his Sixth Amendment right to confrontation because the lower court did not allow him to question laboratory analysts who signed certificates identifying evidence in the case as cocaine. The certificates were introduced as evidence at trial. (The Sixth Amendment guarantees a criminal defendant the right to cross-examine a witness.)

The Supreme Court ruled that the certificates were “functionally identical to live, in-court testimony, doing precisely what a witness does on direct examination.” The opinion noted that while business documents are generally admissible at trial, this “is not the case if the regularly conducted business . . . is the production of evidence for use at trial.”

“Whether or not they qualify as business or official records,” the opinion stated, “the analysts’ statements here – prepared specifically for use at petitioner’s trial – were testimony against petitioner, and the analysts were subject to confrontation under the Sixth Amendment.”

Centralized Infractions Bureau

By law, an individual charged with violating the school bus passing law may pay the fine through the CIB. Payment is considered a plea of *nolo contendere* and is not admissible in any civil or criminal proceeding. If an individual elects to plead not guilty, the CIB must send the plea and request for trial to the clerk of the geographical area court where the trial is to take place. The practice, procedure, rules of evidence, and burden of proof applicable in criminal proceedings apply in such a trial (CGS § 51-164n).

COMMITTEE ACTION

Transportation Committee

Joint Favorable Change of Reference

Yea 36 Nay 0 (03/18/2011)

Judiciary Committee

Joint Favorable Substitute

Yea 40 Nay 3 (04/06/2011)